

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONNIE BRIAN DAVISON,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 1:21-cv-01388-DAD-HBK (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
PETITION

(Doc. No. 5)

Petitioner Ronnie Brian Davison is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. No. 1.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 21, 2021, the assigned magistrate judge issued findings and recommendations, recommending that the pending petition be dismissed due to petitioner's failure to exhaust his claims for federal habeas relief by first presenting them to the highest state court. (Doc. No. 5.) The pending findings and recommendations were served on petitioner at his address of record and contained notice that any objections thereto were to be filed within fourteen (14) days of service. (*Id.* at 4.) Petitioner has not filed any objections and the time in which to do so has passed.

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
2 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
3 findings and recommendations are supported by the record and by proper analysis.

4 Having determined that petitioner is not entitled to habeas relief, the court now turns to
5 whether a certificate of appealability should issue. A state prisoner seeking a writ of habeas
6 corpus has no absolute entitlement to appeal a district court's denial of his petition, and an appeal
7 is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28
8 U.S.C. § 2253. Where, as here, the court denies habeas relief on procedural grounds without
9 reaching the underlying constitutional claims, the court should issue a certificate of appealability
10 “if jurists of reason would find it debatable whether the petition states a valid claim of the denial
11 of a constitutional right and that jurists of reason would find it debatable whether the district court
12 was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In the
13 present case, the court finds that reasonable jurists would not find the court's determination that
14 the petition should be dismissed debatable or wrong, or that petitioner should be allowed to
15 proceed further. Therefore, the court declines to issue a certificate of appealability.

16 Accordingly,

- 17 1. The findings and recommendations issued on September 21, 2021 (Doc. No. 5) are
18 adopted in full;
- 19 2. The petition for writ of habeas corpus (Doc. No. 1) is dismissed;
- 20 3. The court declines to issue a certificate of appealability; and
- 21 4. The Clerk of the Court is directed to close this case.

22 IT IS SO ORDERED.

23 Dated: **November 12, 2021**

24 
UNITED STATES DISTRICT JUDGE